

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**

NEIL GRENNING,

Plaintiff,

v.

RISA A. KLEMME, et al.,

Defendants.

NO. CV-12-0600-JLQ

**ORDER GRANTING MOTION  
FOR PROTECTIVE ORDER**

BEFORE THE COURT is Defendants' Motion for a Protective Order (ECF No. 59), filed in conjunction with Defendants' Motion for Summary Judgment (ECF No. 56) on February 4, 2014.

**I. BACKGROUND**

The Plaintiff, a pro se prisoner currently incarcerated at Airway Heights Corrections Center, filed the present action seeking relief under 42 U.S.C. § 1983 for alleged violations of his rights secured by the First Amendment. In his Second Amended Complaint (ECF No. 19) filed August 6, 2013, he claims the Defendants participated in a "coordinated campaign of harassment" in response to his speech contained in both letters and a manuscript he authored, as well as his filing of grievances. He alleges the Defendants retaliated against him by restricting his mail, issuing an infraction, placing him in segregation, conducting cell searches, and demoting him to medium custody.

On December 19, 2014, the court entered a Scheduling Order setting a discovery deadline of July 18, 2014 and trial date of November 17, 2014. (ECF No. 55).

1 On January 6, 2014, Plaintiff served a total of 53 requests for production on  
2 Defendants. (ECF No. 59 at 2). On February 3, 2014, defense counsel spoke with  
3 Plaintiff on the phone to discuss postponement of discovery until the court ruled  
4 upon the Motion for Summary Judgment counsel would be filing, but the parties  
5 failed to reach a resolution. *Id.*

6 Presently before the court is the Defendant's Motion for a Protective Order  
7 asking the court to stay discovery and relieve them of the duty to respond to the  
8 Plaintiff's discovery requests until resolution of the issue of qualified immunity  
9 raised in Defendants' Summary Judgment Motion. Plaintiff did not file a response  
10 to the Motion for Protective Order. However, in Plaintiff's Response to the Motion  
11 for Summary Judgment, he asserts the outstanding discovery is material to his  
12 ability to respond to the Summary Judgment Motion and to defeat qualified  
13 immunity.

## 14 **II. DISCUSSION**

15 For good cause, the court may deny or limit discovery "to protect a party or  
16 person from annoyance, embarrassment, oppression, or undue burden or expense  
17 ...." Fed.R.Civ.P. 26(c); *see also Little v. City of Seattle*, 863 F.2d 681, 685 (9th  
18 Cir.1988). The court has broad discretion to stay discovery while a dispositive  
19 motion is pending. *See Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36 (1984)  
20 (holding that Rule 26(c) confers "broad discretion on the trial court to decide when  
21 a protective order is appropriate and what degree of protection is required"). The  
22 party requesting a protective order bears the burden of showing good cause. *Rivera*  
23 *v. NIBCO, Inc.*, 364 F.3d 1057, 1063 (9th Cir.2004). The Supreme Court has  
24 repeatedly held that when qualified immunity is raised as a defense by government  
25 officials, the question should be resolved at the earliest possible stage of litigation  
26 and discovery should be stayed until the threshold issue of immunity is resolved.  
27 *Harlow v. Fitzgerald*, 457 U.S. 800, 816–818 (1982) ("bare allegations of malice  
28 should not suffice to subject government officials either to the costs of trial or to the  
burdens of broad-reaching discovery"); *see also Anderson v. Creighton*, 483 U.S.

1 635, 651(1987).

2 The court concludes that good cause exists to stay discovery pending the  
3 court's review and resolution of the Plaintiffs' Motion contending that he must be  
4 permitted to conduct discovery in order to properly oppose the Motion for Summary  
5 Judgment and the Defendants' assertion of qualified immunity.

6 **ACCORDINGLY IT IS HEREBY ORDERED:**

7 1. Defendants' Motion for Protective Order (**ECF No. 59**) is **GRANTED**.

8 2. All discovery in this matter is **STAYED** pending this court's ruling on a)  
9 Defendants' Motion for Summary Judgment (**ECF No. 56**); b) Plaintiff's Motion to  
10 Stay Summary Judgment Until Completion of Discovery Pursuant to Fed.R.Civ.P.  
11 56(d)(**ECF No. 64**); and c) Plaintiff's Motion to Amend (**ECF No. 61**). These  
12 Motions will be considered by the court at the same time and will be deemed  
13 submitted upon completion of the briefing. The Clerk of the Court shall **RESET** the  
14 hearing date of ECF No. 56, ECF No. 61, and ECF No. 64 to **April 7, 2014**.

15 3. The parties are relieved from complying with the March 14, 2014 and  
16 April 11, 2014 deadlines for Rule 26(a)(2) reports and final trial witness lists.  
17 Upon resolution of the pending Motions, the court will reset these deadlines if  
18 necessary.

19 **IT IS SO ORDERED.** The Clerk of the Court shall enter this Order, provide  
20 copies to Plaintiff and counsel for the Defendants.

21 Dated this 5<sup>th</sup> day of March, 2014.

22 s/ Justin L. Quackenbush  
23 JUSTIN L. QUACKENBUSH  
24 SENIOR UNITED STATES DISTRICT JUDGE  
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